



istrative Law (OAL) disapprovals last year, the Board is once again preparing for public hearings on its proposed continuing education (CE) regulations in Chapter 7, Title 16 of the California Administrative Code. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 87; Vol. 7, No. 2 (Spring 1987) p. 64, and Vol. 6, No. 4 (Fall 1986) p. 49 for background information.)

Proposed section 1732.1 sets out requirements for approval of CE providers, course content, and monitoring of compliance with CE requirements by the Board's CE Committee. Section 1732.2 sets forth guidelines for approval of courses from non-recognized providers; section 1732.3 provides for CE Committee monitoring of CE course content; and section 1732.4 describes the Board's coursework audit process. Sections 1732.5-1732.7 concern proof of compliance with CE requirements upon license renewals; exemptions from CE requirements; and review of adverse actions by the CE Committee. A public hearing on the proposed CE regulations is scheduled for April 6 in Los Angeles. Written comments will be accepted until April 5.

Public Hearings on Other Proposed Regulations. The Board scheduled a January 20 hearing on proposed section 1718.1, Chapter 17, Title 16 of the California Administrative Code. The regulation would prohibit any pharmacist from distributing drugs not bearing a manufacturer's expiration date in accordance with section 211.137, Title 21 of the Code of Federal Regulations.

A January 20 hearing was also scheduled on proposed amendments to section 1717(a) of Title 16, California Administrative Code. The existing regulation allows the reuse of clean containers in licensed health care facilities for non-liquid oral products; however, it does not specify requirements for these containers. As amended, section 1717(a) would authorize the reuse of clean containers in licensed community care facilities for non-liquid oral products, and would require that the reused containers conform to standards established in the official compendia.

OAL Disapproval of Proposed Section 1781.5. Sections 4050.5 and 4050.7 of the Business and Professions Code provide an exemption from pharmacist licensure to any manufacturer, wholesaler, or other supplier of hemodialysis drugs who employs qualified personnel, certified by the Board, to supervise the manufacture, compounding, or distribution of dangerous drugs.

On September 18, 1987, the Board submitted to the OAL for a second time its proposed section 1781.5 (Title 16 of the California Administrative Code), which would have established standards to be used by the Board in its consideration of exemption certificate applications, including (1) completion of a written exam; and (2) possession of a pharmacist's license issued by another state, or possession of at least two years' applicable experience in the manufacture, compounding, or distribution of dangerous drugs. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 64 for background information.)

On October 26, OAL again disapproved proposed section 1781.5 because it found the language was non-regulatory in nature, and because the meaning of the term "two years' applicable experience" was unclear. As of this writing, the Board has not yet decided whether it will resubmit the provision.

Informational Hearings on Contemplated Regulations. The Board heard informal comments on January 4 (Fresno), January 6 (Los Angeles), and January 11 (Sacramento) concerning contemplated regulations which would establish qualifications and responsibilities of pharmacy technicians. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 87 for background information.)

According to a policy statement regarding the changes, the Board's purpose is to "recognize, foster and monitor the employment of ancillary personnel to perform repetitive, non-discretionary functions related to the practice of pharmacy but not involving the exercise of professional judgment, so that pharmacists may devote themselves to the professional non-technical aspects of pharmacy practice, including safe, effective drug therapy delivery."

Section 1793 of new Article 12, Title 16, California Administrative Code, would define terms used in the article; section 1794 would describe the responsibilities of pharmacists and registered interns, including receiving new prescription orders, consulting with patients, evaluating and interpreting prescriptions, interpreting clinical data, supervising drug packaging, and supervising non-pharmacist personnel. Section 1795 would set out qualifications of pharmacy technicians and minimum requirements for technician programs; and section 1796 would propose minimum requirements for pharmacies employing technicians. As of this writing, the Board has not decided whether to formally propose the regulations.

LEGISLATION:

All two-year bills reported in CRLR Vol. 7, No. 4 (Fall 1987) at pp. 63-64 remain inactive as of this writing. Those measures include *AB 44 (Calderon)*, *AB 1953 (Filante)*, *AB 513 (Tucker)*, *AB 1238 (Moore)*, *AB 1732 (Isenberg)*, and *SB 1534 (Keene)*.

RECENT MEETINGS:

Senate Bill 550, enacted in 1986, added section 6030.1 to the Penal Code, directing the state's Board of Corrections, with support from the Board of Pharmacy, to conduct a study into the handling and management of drugs in correctional facilities. On October 8 and 9, the Board heard reports from pharmacists who had attended an October 7 hearing on the Board of Corrections' proposed drug management regulations, to be located in Subchapter 4, Chapter 2, Division 1, Title 15 of the California Administrative Code (Minimum Standards for Local Detention Facilities). The proposed regulations would authorize the Board of Corrections to hire a consultant pharmacist to administer the drug distribution program in correctional facilities.

After discussion of the Board of Corrections' proposed regulations, the Board voted to send a letter to the Board of Corrections outlining several concerns. The Board is primarily concerned with proposed section 1216(a)(9), which requires preparation of an annual report by a pharmacist on the status of pharmacy services in the institution, but which does not require the pharmacist to keep or include records of drug distribution to individual inmate patients in the annual report.

FUTURE MEETINGS:

April 6-7 in Los Angeles.

POLYGRAPH EXAMINERS BOARD

Executive Officer: Dia Goode
(916) 739-3855

The Polygraph Examiners Board operates within the Department of Consumer Affairs. The Board has authority to issue new licenses and to regulate the activities of an estimated 655 examiners currently licensed in California under Business and Professions Code section 9300 *et seq.* The Board has no jurisdiction over federally-employed polygraph examiners.

The Polygraph Examiners Board consists of two industry representatives and three public members, all appointed



to four-year terms. The Board has a sunset date of January 1, 1990.

MAJOR PROJECTS:

Regulatory Changes. The Board has proposed several amendments to its regulations contained in Chapter 34, Title 16 of the California Administrative Code. Current section 3474 requires continuing education providers to apply for approval at least ninety days prior to the first class session. The Board has proposed to reduce the application time limit for providers seeking Board approval. Because the Board no longer meets on a quarterly basis and the Executive Officer is now primarily responsible for course approval, the new proposal would require application for approval only thirty days prior to the first class session.

The Board has also proposed to modify section 3480, which currently lists eight acts which serve as grounds for denial, revocation, or suspension of a license. The proposed change would modify the list, making it illustrative rather than exhaustive. Acts worthy of disciplinary measures would include, but would not be limited to, the eight listed acts.

The Office of Administrative Law recently approved Board regulatory changes which included the adoption of numerous new provisions. Among the sections added to Chapter 34 are sections 3422 (eligibility for examination); 3425 (approval prior to July 21, 1986); 3432 (intern supervisors); 3474.1 (continuing education provider fee); 3402 (definitions); 3404 (delegation of powers); 3406 (filing address); 3408 (name changes); 3440, 3442, and 3444 (polygraph instruments); and 3482 (clarifying "substantially related to job qualification").

LEGISLATION:

The Board has proposed an amendment to the Business and Professions Code which would provide a mechanism for recovering the cost of investigations and prosecutions leading to the suspension or revocation of a polygraph examiner's license. The proposed language would allow the Board to petition for the recovery of such costs only when it prevails over the licensee.

The Board has also proposed to amend Business and Professions Code section 9331 to specify that license renewal fees become delinquent thirty days after they are due.

These legislative proposals had not yet been formally introduced as of this writing.

RECENT MEETINGS:

At its October 23 meeting in Newport Beach, the Board reported recent examination statistics. The June 1987 examination had a passage rate of 68%, with eight passing, four failing, and three not attending. The September 1987 examination passage rate was 62%, with eight passing, five failing, and one not attending.

Also at the October meeting, the Board discussed the possibility of approving videotapes as continuing education courses. The Board took no action on the suggestion, as no continuing education provider had yet requested such approval. Providers currently use videotapes in their courses, but oppose the use of videotapes in lieu of standard training methods.

The Board also discussed the legality of law enforcement officials requesting that polygraph examiners falsify test results as part of an undercover investigation. Of particular interest was a recent newspaper article about a San Jose polygraph examiner who was asked to serve as a "double agent," thereby allowing undercover police officers to infiltrate a drug ring. The Board asked staff counsel to research whether law enforcement agencies have special authority to require examiners to falsify polygraph examination results.

FUTURE MEETINGS:

To be announced.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Acting Executive Officer:

Darlene Stroup
(916) 920-7466

The Board of Registration for Professional Engineers and Land Surveyors regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act and the Professional Land Surveyors' Act.

The basic functions of the Board are to conduct examinations, issue certificates and/or licenses and appropriately channel complaints against its licensees. The Board is additionally empowered to suspend or revoke certificates or licenses. On a routine basis, the Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied registration and licensees who have had their licenses suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered practice act engineers and one title act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established seven standing committees dealing with land surveying and the various branches of engineering. These committees, each composed of three Board members, approve or deny applications for examinations and register applicants who pass the examinations. Their actions must have the approval of the entire Board, which is routinely forthcoming.

Professional engineers are now licensed through the three Practice Act categories of civil, electrical and mechanical engineering under section 6730 of the Business and Professions Code, and the Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering.

Structural engineering and soil engineering are linked to the civil Practice Act and require an additional examination after qualification as a Practice Act engineer.

MAJOR PROJECTS:

Executive Director Board-Certification Requirement. On October 2, the Board voted to rescind its requirement that its Executive Officer be a Board-certified professional engineer or land surveyor. This action followed lengthy discussion of the issue.

In support of changing the requirement, which is contained in section 405(d), Title 16 of the California Administrative Code, Board members Mackey and Dolson contended that the Executive Officer is primarily responsible for administration. Board member Blaylock, however, advocated an engineering background for evaluating professional issues and registrant misconduct.

A letter in the rulemaking file from T. G. Atkinson of Atkinson, Johnson and Spurrier of San Diego expressed concern that the Executive Officer be a "professional engineer of wide reputation who enjoyed the respect and support of his fellow registered professionals." After recounting the distinguished careers of several past Executive Officers, Atkinson reasoned that "(t)he Executive Secretary should be a person